IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 16594 of 2004

Between:

Tayyaba Tasneem D/o. Syed Arif Pasha
R/o. Flat No.3, Prime Hills Apartments, Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The State of Andhra Pradesh Rep. by its Secretary Home Department

Secretariat Buildings, Hyderabad.
2 The Commissioner of Police Basheerbagh, Hyderabad.
3 The Assistant Commissioner of Police, West Zone, Hyderabad.
4 The Station House Officer P.S.Banjara Hills, Hyderabad.
5 Jagdish Chandra S.I. of P.S.Banjara Hills, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or direction more in the nature of writ of mandamus or any other appropriate writ directing the respondent No.4 to register a Criminal Complaint of Petitioner under section 307 of I.P.C AGAINST SAJIDA ZAREEN, D/o.Sri Qudrat Ali aged about 35 years, Occ: Business R/o. Flat No.3, Meenakshi Towers, Banajra Hills, Hyderabad and her associated un-social elements, and investigate into the matter and submit report to concerned Court for Trial as per law, declaring the action of Respondent No.4 and 5 in not registering Criminal Complaint of Petitioner is arbitrary, illegal, unjust and against Principles of natural justice and Article 21 of Constitution of India.

Counsel for the Petitioner: MR.KHAJA MANZOOR ALI
Counsel for the Respondent Nos.1 to 4: GP FOR HOME

The Court made the following at the admission stage:

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home.

The petitioner submits that she has obtained Flat No.3 in Prime Hills Apartments in Plot Nos.44-A and 61 in Survey Nos.120 and 121 situate at Road No.10, Banjara Hills, Hyderabad, on rent by registered lease deed bearing Document No.3442 of 2004. While so, on 10.9.2004 one lady by name Sajida Zareen along with some other unsocial elements alleging that she is the divorced wife of the owner of the flat, started scolding in filthy language and forced the petitioner to hand over vacant possession of the said flat. As the petitioner refused to vacate and hand over the said flat, the said Sajida Zareen beat her and her family members mercilessly to create terror and at the interference of neighbours, she was saved. Immediately, she lodged a written complaint to the police on 11.9.2004, but the respondents have not taken any action with regard the incident that took place on 10.9.2004.

Counter affidavit has been filed by the respondents stating that a civil dispute is pending before the flat owner and the said Sajida Zareen in civil court and while the matters stood thus, a complaint has been filed by Sajida Zareen stating that the petitioner trespassed into the said flat on 10.9.2004 and the said complaint was registered as Crime No.652 of 2004 under Sections 448 and 323 IPC against the petitioner and she was remanded to judicial custody. On 11.9.2004

the petitioner filed a complaint on which a Petty Case No.1636 of 2004 was registered for the offence under Section 323 IPC. The police also registered Petty Case No.1639 of 2004 under Section 323 IPC and Section 70(B) of City Police Act against the said Sajida Zareen on 12.9.2004.

The complaint of the petitioner is that the crime committed by the Sajida Zareen is a serious offence as they wanted to kill the petitioner and her family members and, therefore, it comes under Section 307 IPC. But the police in hand-in-glove with the said Sajida Zareen registered a petty case only. The tenor of the counter affidavit filed by the Inspector of Police, Banjara Hills Police Station, goes to show that the police have registered a case against the petitioner only on the complaint filed by Sajida Zareen, though there is a registered lease deed and the petitioner was in possession of the premises. But, however, this Court cannot record evidence and come to the conclusion that the police have showed favour to the said Sajida Zareen and they have not impartially investigated the crime. As both the cases are pending before the criminal court, it is for the petitioner to take appropriate action against the said Sajida Zareen. But this Court cannot investigate and decide the issues.

In view of the aforesaid observation, the writ petition is disposed of. No order as to costs.

(V.ESWARAIAH, J.)

26.4.2005

kpr

To

1 The Secretary to Government, Home Department, Govt. of A.P.,

Secretariat Buildings, Hyderabad.
2 The Commissioner of Police Basheerbagh, Hyderabad.
3 The Assistant Commissioner of Police, West Zone, Hyderabad.
4 The Station House Officer P.S.Banjara Hills, Hyderabad.
5 Jagdish Chandra S.I. of P.S.Banjara Hills, Hyderabad.

6 2 c.c to the Govt. Pleader for Home, High Court buildings, Hyderabad (OUT)

7 2 C.D copies